

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

James Hardin, #275030,	)	Case No. 3:08-2334-PMD
	)	
Petitioner,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
Acting Warden Leroy Cartledge,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the court upon motion of petitioner to set aside judgment and leave to file objections to the magistrate's report. Magistrate Judge Joseph R. McCrorey issued his report and recommendation on March 16, 2010, recommending respondent's motion for summary judgment be granted. Petitioner's objections to the magistrate's report and recommendation were due to be filed with the court on or before April 5, 2010. On March 26, 2010, petitioner filed a motion for extension of time to file his objections. By Order filed March 29, 2010, the court granted petitioner a thirty (30) day extension, making his objections due on or before May 5, 2010. None were forthcoming, and the court issued an order on May 11, 2010 adopting the magistrate's report and recommendation granting respondent's motion for summary judgment, and judgment was entered the same day.

Petitioner on May 21, 2010, filed the within motion seeking relief from this court's order. Petitioner alleges that he mailed his objections to the court on May 6, 2010, however, they have never been received by the court nor returned to petitioner. Even though petitioner alleges that he mailed the objections and the same have been lost in the mail this is essentially not relevant, as petitioner was given a thirty (30) day extension to file his objections, with the same being due on May 5, 2010, and petitioner admits he did not mail his objections until May 6, 2010, making them

untimely. Now therefore,

**IT IS HEREBY ORDERED** that petitioner's motion to vacate judgment and leave to file objections to the magistrate's report is **DENIED**.

**AND IT IS SO ORDERED.**

  
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PATRICK MICHAEL DUFFY  
United States District Judge

June 14, 2010  
Charleston, South Carolina